

### **Remarks/Arguments**

Applicants respectfully request consideration of the subject application as amended herein. This Amendment is submitted in response to the Final Office Action mailed May 15, 2008. Claims 1-19, 58-61, 64-67, and 73-79 are rejected.

In this Amendment, claims 1, 58, 67, and 76 have been amended. No claims have been added or canceled. It is respectfully submitted that the amendment does not add new matter.

Applicants reserve all rights with respect to the applicability of the Doctrine of Equivalents.

### **Claim Rejections under 35 U.S.C. §103(a)**

The Examiner has rejected claims 1-9, 16, 58-61, 67 and 76-79 under 35 U.S.C. § 103(a) as being unpatentable over Tam et al., Publication No. US2002/0184116, (hereinafter "Tam '116) in view of Tam et al., Publication No. US2002/0147656, (hereinafter "Tam '656"). Applicants respectfully disagree.

Tam '116 describes a data structure for holding product information (Tam '116, Abstract). Sellers create electronic catalogs, by specifying products, identifying those products by stock number or a universal product code (UPC), and supplying an image of the product (Tam '116, paragraphs [0034-0036]). After creating a catalog, the seller then uploads the entire catalog to one or more aggregators (Tam '116, paragraphs [0018-0019]). Aggregators then distribute the catalogs to potential buyers (Tam '116, paragraphs [0022]). Tam '116, therefore, describes the generation and distribution of product catalogs prior to buyer requests.

Tam '656 describes the sales transactions resulting from the catalogs generated in Tam '116. As in Tam '116, sellers create catalogs, upload those catalogs to aggregators, which in turn distribute those catalogs to buyers (Tam '656, paragraph [0025-0026]). Buyers then purchase items from a catalog at a clearinghouse (Tam '656, paragraphs [0027-0028]). The clearinghouse then facilitates the purchase by forwarding orders to the seller or an associated fulfiller (Tam '656, paragraph [0028]).

Amended claim 1 recites:

An improved method for an e-commerce retailer to display and sell items of a third party comprising:  
identifying each item of a third party supplier with a unique identifier;  
associating the unique identifier of the item with an image for the item,  
said image residing on a computer maintained by the third party supplier, wherein the unique identifier is further associated with a user;  
in response to a product request from the user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier in response to the product request, the product request being a user-initiated request for at least one specific item of the third party; and  
in response to an order request from the user to the e-commerce retailer, for one or more items,  
identifying, based at least in part on said unique identifier, each item requested, the user, and an appropriate third party supplier for each requested item,  
automatically generating an order for each requested item to be transparently sent to the third party supplier.

(Emphasis Added)

Applicants respectfully submit that neither Tam '116 nor Tam '656, alone or in combination, teaches or suggests “associating the unique identifier of the item with an image for the item, said image residing on a computer maintained by the third party supplier, wherein the unique identifier is further associated with a user ... in response to an order request from the user to the e-commerce retailer, for one or more items, identifying, based at least in part on said unique identifier, each item requested, the user, and an appropriate third party supplier for each requested item” or “in response to a product request from the user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier in response to the product request, the product request being a user-initiated request for at least one specific item of the third party” as claimed by the Applicants.

Tam '116 and Tam '656 describe that sellers create catalogs including particular items, images of those items, etc. The catalogs are compiled by an aggregator, which

then distributes the catalogs to potential buyers. Buyers may then view images of items in a catalog and order items from the catalog through a clearinghouse. The Examiner notes that an “identifier can be the stock or UPC number” which identifies a product offered by a seller (Final Office Action, mailed 5/15/08, page 4). Then, when a user places an order “products are identified by their related product numbers and, in order for the order send to appropriate seller or fulfiller, the appropriate seller is inherently identified” (Final Office Action, mailed 5/15/08, page 5). Thus, identifiers are included in the Tam references to identify sellers and their products. Nowhere, however, are unique identifiers associated with users. Rather, as noted by the Examiner and discussed in both Tam references, sellers and their products are identified by stock or UPC numbers, neither of which are related in any way to a user. Thus, a combination of Tam ‘116 and Tam ‘656 must fail to teach or suggest “identifying each item of a third party supplier with a unique identifier; [and] associating the unique identifier of the item with an image for the item, said image residing on a computer maintained by the third party supplier, wherein the unique identifier is further associated with a user,” as claimed.

Furthermore, in the Tam references, when a user places an order “products are identified by their related product numbers and, in order for the order send to appropriate seller or fulfiller, the appropriate seller is inherently identified” (Final Office Action, mailed 5/15/08, page 5). Since a user is not associated with a unique ID, as discussed above, the Tam reference must then logically fail to “identifying, based at least in part on said unique identifier, each item requested, the user, and an appropriate third party supplier for each requested item” in response to an order request. That is, the identifier of the Tam references (e.g., a UPC number or stock number in Tam ‘116 and Tam ‘656) merely identifies products, and does not identify a user, as claimed.

Applicants further recite in part:

in response to a product request from the user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier in response to the product request, the product request being a user-initiated request for at least one specific item of the third party;

(Emphasis Added)

That is, images are presented and retrieved from a third party supplier in response to a user-initiated request for a specific third party item. The Examiner utilizes Tam '656 as teaching that a catalog may be customized for a specific user based on registration information and buying habits (Tam '656, paragraphs [0071] and [0076]). The Examiner notes that user shopping history, service registration, or prior orders correspond to product requests and the images corresponding to products are obtained in response to a user's shopping history, service registration, or prior orders (Final Office Action, mailed 5/15/08, pages 4-5 and 15-16). As claimed by the Applicants, however, images of third party items are both obtained and presented in response to a user initiated product request for at least one specific item.

Product images in Tam '656 are, at best, obtained and presented when a catalog is created (Tam '656, paragraphs [0071] and [0076]). Although user history including prior product orders and registration information are utilized in Tam '656 to customize a catalog, the customized product listing including the images are done prior to the distribution of a catalog to a user. Tam '656 recites:

[0073] In action 604, aggregator 102 receives buyer registration information from clearinghouse 118. In one implementation, aggregator 102 uses aggregator computer 302 to receive buyer registration information 126 from clearinghouse computer 318. In some variations, seller computer 304 and clearinghouse computer 318 communicate buyer registration information 126 through customized or industry standard EDI (including XML).

[0074] Aggregator computer 302 saves buyer registration information 126 in a buyer database 352 (FIG. 3). Aggregator 102 later uses buyer registration information 126 to create a catalog 114 that is tailored to the interest of specific buyers.

[0075] In action 606, **aggregator 102 selects a buyer** (e.g., buyer 116-j) from buyer database 352. In one implementation, aggregator computer 302 selects a buyer from buyers database 352 based on a personal attribute of the buyer (e.g., interest, age, income level, and etc.). In another implementation, aggregator computer 302 selects a buyer from buyer database 352 in any logical or random order.

[0076] In action 608, aggregator 102 generates catalog 114 for buyer 116j.

(Emphasis Added)

Thus, as recited in Tam '656, buyer information is saved in a database, and the buyer information is later recalled from the storage when the aggregator selects a buyer for whom a catalog will be generated. Thus, any presentation and obtaining of product images in Tam is performed when a catalog is created for a pre-selected buyer, even when product preferences and order histories are utilized to construct the catalog. Therefore, Tam '656, as well as a combination of Tam '116 and Tam '656, must fail to teach or suggest "in response to a product request from the user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier in response to the product request, the product request being a user-initiated request for at least one specific item of the third party," as claimed.

Thus, Tam '116 and Tam '656, alone or in combination, fail to render claim 1, and claims 2-9 and 16 which depend from claim 1, obvious.

Amended claim 58 recites:

A system providing an improved method for an e-commerce retailer to display and sell items of a third party, said system comprising:  
an e-commerce retailer to identify each item of a third party supplier with a unique identifier, the unique identifier associated, at least in part, with a user;  
an image server module for receiving user information requests from the e-commerce retailer regarding certain third party supplier items including a user-initiated information request from the user for at least one specific item of the third party, and transparently providing images and descriptions of said items retrieved from a computer maintained by the third party supplier in response to user information requests; and  
an order engine module, in communication with said image server module, for processing orders for third party supplier items.

(Emphasis Added)

As discussed above, with respect to claim 1, Tam '116 and Tam '656 fail to teach or suggest identifying and associating each item of a third party supplier with a unique identifier where the unique identifier is further associated with a user, or providing images and descriptions of items in response to user information requests including a user-initiated information requests for specific third party items. Because claim 58

claims “an e-commerce retailer to identify each item of a third party supplier with a unique identifier, the unique identifier associated, at least in part, with a user” and “an image server module for receiving user information requests from the e-commerce retailer regarding certain third party supplier items including a user-initiated information request from the user for at least one specific item of the third party,” claim 58 is not obvious over Tam ‘116 and Tam ‘656, whether taken alone or in combination. Furthermore, claims 59-61 depend from claim 58, and include additional features and limitations. Thus, claims 59-61 are also not anticipated by Tam ‘116 and Tam ‘656.

Amended claim 67 recites:

A computer readable medium that provides instructions, which when executed on a processing system, cause said processing system to perform a method comprising:  
identifying each item of a third party supplier with a unique identifier;  
associating the unique identifier of the item with an image for the item,  
said image residing on a computer maintained by the third party  
supplier, wherein the unique identifier is further associated with a  
user;  
transparently presenting, by an e-commerce system, third party supplier items to a user for on-line commerce;  
receiving user information requests at the e-commerce system regarding  
certain graphic images from an item presentation program logic,  
and providing digital images for display wherein said digital images  
are retrieved from a computer system maintained by the third party  
supplier in response to the product request, the product request  
being a user-initiated request for at least one specific item of the  
third party; and  
processing orders for graphic images to be transparently sent to the appropriate third party supplier.

(Emphasis Added)

As discussed above, with respect to claim 1, Tam ‘116 and Tam ‘656 fail to teach or suggest identifying and associating each item of a third party supplier with a unique identifier where the unique identifier is further associated with a user, or providing images and descriptions of items in response to user information requests including a user-initiated information requests for specific third party items. Because claim 67 claims “associating the unique identifier of the item with an image for the item, said image residing on a computer maintained by the third party supplier, wherein the unique identifier is further associated with a user” and “receiving user information requests at

the e-commerce system ... providing digital images for display wherein said digital images are retrieved from a computer system maintained by the third party supplier in response to the product request, the product request being a user-initiated request for at least one specific item of the third party,” claim 67 is not anticipated by Tam ‘116 and Tam ‘656, whether taken alone or in combination.

Amended claim 76 recites:

A computer readable medium that provides instructions, which when executed on a processing system, cause said processing system to perform a method comprising:

identifying, with a tagging logic, each item of a third party supplier with a unique identifier, each unique identifier associated with data about that item and a user;

transparently presenting, with an e-commerce logic, at least some of the items to the user for on-line commerce in response to a user-initiated information request for a third party supplier item;

retrieving the data, with an XML request logic, about the one or more items from a third party supplier website, and enabling the e-commerce logic to present the data to the user for the on-line commerce; and

processing orders for items with an order engine.

(Emphasis Added)

As discussed above, with respect to claim 1, Tam ‘116 and Tam ‘656 fail to teach or suggest identifying and associating each item of a third party supplier with a unique identifier where the unique identifier is further associated with a user, or providing images and descriptions of items in response to user information requests including a user-initiated information requests for specific third party items. Because claim 76 claims “identifying, with a tagging logic, each item of a third party supplier with a unique identifier, each unique identifier associated with data about that item and a user” and “transparently presenting, with an e-commerce logic, at least some of the items to the user for on-line commerce in response to a user-initiated information request for a third party supplier item,” claim 76, and claims 77-79 which depend therefrom, are not anticipated by Tam ‘116 and Tam ‘656, whether taken alone or in combination.

Therefore, Applicants respectfully request that the Examiner withdraw the rejection of claims 1-9, 16, 58-61, 67 and 76-79 under 35 U.S.C. § 103(a) as being unpatentable over Tam ‘116 in view of Tam ‘656.

The Examiner rejects claims 10-12, 17, 64 and 75 under 35 U.S.C. § 103(a) as being unpatentable over Tams et al., in view of Baum, Publication No. US2002/0065741, (hereinafter “Baum”). Applicants respectfully disagree.

As discussed above, with respect to independent claims 1, 58, and 67, Tam ‘116 and Tam ‘656 fail to teach or suggest identifying and associating each item of a third party supplier with a unique identifier where the unique identifier is further associated with a user, or providing images and descriptions of items in response to user information requests including a user-initiated information requests for specific third party items. Baum describes a user initiating the distribution of cards from a selected service, where the cards include an image and text associated with the image (Baum, page 8, paragraphs 78-80; Figure 4). Thus, because Baum merely discusses distributing e-cards, Baum also fails to describe or suggest identifying and associating each item of a third party supplier with a unique identifier where the unique identifier is further associated with a user, or providing images and descriptions of items in response to user information requests including a user-initiated information requests for specific third party items, as recited in claims 1, 58, and 67. Therefore, Tam ‘116, Tam ‘656, and Baum, alone or in combination fail to render claims 1, 58, and 67, and thus dependent claims 10-12, 17, 64 and 75, obvious.

Applicants respectfully request that the Examiner withdraw the rejection of claims 10-12, 17, 64 and 75 under 35 U.S.C. § 103(a) as being unpatentable over Tam ‘116 in view of Tam ‘656, and further in view of Baum.

The Examiner rejects claim 13 under 35 U.S.C. § 103(a) as being unpatentable over Tams et al., in view of Garfinkle, Patent No. US 6,017,157, (hereinafter “Garfinkle”). Applicants respectfully disagree.

As discussed above, with respect to independent claims 1, Tam ‘116 and Tam ‘656 fail to teach or suggest “associating the unique identifier of the item with an image for the item, said image residing on a computer maintained by the third party supplier, wherein the unique identifier is further associated with a user ... in response to an order request from the user to the e-commerce retailer, for one or more items, identifying, based at least in part on said unique identifier, each item requested, the user, and an appropriate third party supplier for each requested item” or “in response to a product



request from the user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier in response to the product request, the product request being a user-initiated request for at least one specific item of the third party.” Garfinkle describes an access code that identifies a photographer’s digital images, as well as particular image server where the images are stored (Garfinkle, Column 4, lines 6-20). The photographer may then order print copies of the uploaded digital images from a pre-selected fulfillment center utilizing the photographer’s access code (Garfinkle, Column 9, lines 8-13; Column 9, lines 26-41). Thus, because Garfinkle merely discusses distributing a photographer identifying their own images and a server that stores those images, Garfinkle also fails to describe or suggest “associating the unique identifier of the item with an image for the item, said image residing on a computer maintained by the third party supplier, wherein the unique identifier is further associated with a user ... in response to an order request from the user to the e-commerce retailer, for one or more items, identifying, based at least in part on said unique identifier, each item requested, the user, and an appropriate third party supplier for each requested item” or “in response to a product request from the user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier in response to the product request, the product request being a user-initiated request for at least one specific item of the third party,” as recited in claim 1. Therefore, Tam ‘116, Tam ‘656, and Garfinkle, alone or in combination fails to render claim 1, and thus dependent claim 13, obvious.

Applicants respectfully request that the Examiner withdraw the rejection of claim 13 under 35 U.S.C. § 103(a) as being unpatentable over Tam ‘116 in view of Tam ‘656, and further in view of Garfinkle.

The Examiner rejects claim 14 under 35 U.S.C. § 103(a) as being unpatentable over Tams et al., in view of Lyons et al., Publication No. US2002/0077937, (hereinafter “Lyons”). Applicants respectfully disagree.

As discussed above, with respect to independent claims 1, Tam '116 and Tam '656 fail to teach or suggest "associating the unique identifier of the item with an image for the item, said image residing on a computer maintained by the third party supplier, wherein the unique identifier is further associated with a user ... in response to an order request from the user to the e-commerce retailer, for one or more items, identifying, based at least in part on said unique identifier, each item requested, the user, and an appropriate third party supplier for each requested item" or "in response to a product request from the user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier in response to the product request, the product request being a user-initiated request for at least one specific item of the third party." Lyons describes a system where a user buys goods online and picks up goods at a selected pickup location (Lyons, Abstract; page 6, paragraphs 50-52). If the goods are available at a pickup location, a message is sent to the seller indicating that such goods are available (Lyons, page 5, paragraph 50). However, Lyons does not address identifying third party supplier items with unique identifiers or retrieving images from third party suppliers in response to user requests. Thus, Lyons also fails to describe or suggest "associating the unique identifier of the item with an image for the item, said image residing on a computer maintained by the third party supplier, wherein the unique identifier is further associated with a user ... in response to an order request from the user to the e-commerce retailer, for one or more items, identifying, based at least in part on said unique identifier, each item requested, the user, and an appropriate third party supplier for each requested item" or "in response to a product request from the user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier in response to the product request, the product request being a user-initiated request for at least one specific item of the third party," as recited in claim 1. Therefore, since none of the references, alone or in combination, teaches or suggests the limitations of claim 1, claim 1 is not rendered obvious by Tam '116 in view of Tam '656, and further in view of Lyons. Furthermore, claim 14 depends

on claim 1, and includes additional features and limitations. Thus, claim 14 is also not rendered obvious by Tam '116 in view of Tam '656, and further in view of Lyons.

Applicants respectfully request that the Examiner withdraw the rejection of claim 14 under 35 U.S.C. § 103(a) as being unpatentable over Tam '116 in view of Tam '656, and further in view of Lyons.

The Examiner rejects claim 15 under 35 U.S.C. § 103(a) as being unpatentable over Tams et al., in view of Shmueli et al., Publication No. US2002/0143637, (hereinafter "Shmueli"). Applicants respectfully disagree.

As discussed above, with respect to independent claims 1, Tam '116 and Tam '656 fail to teach or suggest "associating the unique identifier of the item with an image for the item, said image residing on a computer maintained by the third party supplier, wherein the unique identifier is further associated with a user ... in response to an order request from the user to the e-commerce retailer, for one or more items, identifying, based at least in part on said unique identifier, each item requested, the user, and an appropriate third party supplier for each requested item" or "in response to a product request from the user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier in response to the product request, the product request being a user-initiated request for at least one specific item of the third party." Shmueli describes a system for facilitating multiple shopping sessions at multiple websites with a portable device that retains and utilizes information from the multiple shopping sessions (Shmueli, page 6, paragraphs 61-65). However, Shmueli does not address identifying third party supplier items with unique identifiers or retrieving images from third party suppliers in response to user requests. Thus, Shmueli also fails to describe or suggest "associating the unique identifier of the item with an image for the item, said image residing on a computer maintained by the third party supplier, wherein the unique identifier is further associated with a user ... in response to an order request from the user to the e-commerce retailer, for one or more items, identifying, based at least in part on said unique identifier, each item requested, the user, and an appropriate third party supplier for each requested item" or "in response to a product request from the user to the e-commerce retailer, the

e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier in response to the product request, the product request being a user-initiated request for at least one specific item of the third party,” as recited in claim 1. Therefore, Tam ‘116, Tam ‘656, and Shmueli, alone or in combination fail to render claim 1, and thus dependent claim 15, obvious.

Applicants respectfully request that the Examiner withdraw the rejection of claim 15 under 35 U.S.C. § 103(a) as being unpatentable over Tam ‘116 in view of Tam ‘656, and further in view of Shmueli.

The Examiner rejects claims 18, 19, 65, 66, 73 and 74 under 35 U.S.C. § 103(a) as being unpatentable over Tams et al., in view of Johnson et al., Patent No. US 6,505,172, (hereinafter “Johnson”). Applicants respectfully disagree.

With respect to independent claims 1, 58, and 67, as discussed above, Tam ‘116 and Tam ‘656 fail to describe or suggest identifying and associating each item of a third party supplier with a unique identifier where the unique identifier is further associated with a user, or providing images and descriptions of items in response to user information requests including a user-initiated information requests for specific third party items. Johnson describes generating purchase orders that are forwarded to numerous warehouse locations for satisfaction from warehouse inventory (Johnson, Figure 3). However, warehouse inventory location is transmitted back to a purchaser (Johnson, column 10, lines 50-55), and Johnson does not address identifying third party supplier items with unique identifiers or retrieving images from third party suppliers in response to user requests. Thus, Johnson also fails to describe or suggest identifying and associating each item of a third party supplier with a unique identifier where the unique identifier is further associated with a user, or providing images and descriptions of items in response to user information requests including a user-initiated information requests for specific third party items. Therefore, since none of the references, alone or in combination, teach or suggest the limitations of independent claims 1, 58, and 67, claim 1 58, and 67 are not rendered obvious by Tam ‘116 in view of Tam ‘656, and further in view of Johnson. Furthermore, claims 18-19, 65-66, and 73-74 depend on claims 1, 58, and 67, respectively, and includes additional features and limitations.

Thus, claims 18-19, 65-66, and 73-74 are also not rendered obvious by Tam '116 in view of Tam '656, and further in view of Johnson.

Applicant respectfully requests that the Examiner withdraw the rejection of claims 18-19, 65-66, and 73-74 under 35 U.S.C. § 103(a) as being unpatentable over Tam '116 in view of Tam '656, and further in view of Johnson.

## **Conclusion**

Applicant respectfully submits that in view of the amendments and discussion set forth herein, the applicable rejections have been overcome. Accordingly, the present and amended claims should be found to be in condition for allowance.

If a telephone interview would expedite the prosecution of this application, the Examiner is invited to contact Judith A. Szepesi at (408) 720-8300.

If there are any additional charges/credits, please charge/credit our deposit account no. 02-2666.

Respectfully submitted,  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: August 15, 2008

/Judith Szepesi/

Judith A. Szepesi  
Reg. No. 39,393

Customer No. 08791  
1279 Oakmead Parkway  
Sunnyvale, CA 94085  
(408) 720-8300